

R 050725Z APR 94  
FM AMEMBASSY BANDAR SERI BEGAWAN  
TO SECSTATE WASHDC 3077  
USCINCPAC HONOLULU HI  
ASEAN COLLECTIVE  
AMEMBASSY BUCHAREST

CONFIDENTIAL SECTION 01 OF 05 BANDAR SERI BEGAWAN 00318

DEPT. FOR EAP/PIMBS FOR NIDA  
DEPT FOR INR/B  
SINGAPORE FOR ARMA  
CINCPAC FOR FPA - AMB. SALMON  
BUCHAREST FOR POL - TONY KOLANKIEWICZ

E.O. 12356: DECL: OADR  
TAGS: PGOV BX  
SUBJECT: BRUNEI CONSIDERS CONSTITUTIONAL REVISIONS

REF: BANDAR SERI BEGAWAN 186

¶1. CONFIDENTIAL - ENTIRE TEXT.

¶2. SUMMARY: BRUNEI'S TWO-YEAR-PLUS CONSTITUTIONAL REVIEW PROCESS APPEARS TO BE NEARING COMPLETION. MOST OBSERVERS REALISTICALLY EXPECT CHANGES TO BE MODEST, AND THE SULTAN'S FULL POWERS TO REMAIN INTACT. MODERATES ARE PRESSING FOR THE ESTABLISHMENT OF A BROADLY REPRESENTATIVE LEGISLATIVE ASSEMBLY, INITIALLY APPOINTED BUT WITH A TIME-TABLE FOR MOVING TOWARDS DIRECT ELECTIONS. THE SULTAN WOULD RETAIN ULTIMATE AUTHORITY OVER THE ASSEMBLY'S ACTIONS. RELIGIOUS ELEMENTS APPARENTLY HAVE PRESSED FOR THE INITIATION OF THE EXTREME ISLAMIC HUDUD PUNISHMENTS, BUT ARE UNLIKELY TO SUCCEED IN THIS ATTEMPT.

¶3. DEBATE CONTINUES IN THE INNER CIRCLES, BUT INFORMED OBSERVERS EXPECT THE SULTAN TO ANNOUNCE HIS DECISIONS THIS YEAR. SHOULD IT MATERIALIZE, THE LEGISLATIVE ASSEMBLY, EVEN AN APPOINTED ONE, COULD PROVIDE A FORUM FOR AIRING ALTERNATE VIEWS, AND COULD, IN THE WORDS OF ONE SENIOR MINISTER, SERVE AS A "BRAKE" ON THE CURRENTLY UNCHALLENGED RELIGIOUS RADICALS. END SUMMARY.

¶4. THE SULTAN'S FEBRUARY 23RD ANNOUNCEMENT (REFTEL) THAT THE GOVERNMENT HAS BEEN REVIEWING THE CONSTITUTION HAS PROMPTED SPECULATION ABOUT THE NATURE OF THE CHANGES CONTEMPLATED. WE HAVE BEEN TAKING SOUNDINGS WITH GOVERNMENT OFFICIALS AND DIPLOMATIC CORPS COLLEAGUES CONCERNING POSSIBLE CONSTITUTIONAL REVISIONS. HIGHLIGHTS FOLLOW.

HUDUD PUNISHMENTS

-----

¶5. ON FEBRUARY 24TH IVAN LEONG (PROTECT), BRUNEI'S ASSISTANT SOLICITOR GENERAL (THE SECOND-RANKING PROSECUTOR IN THE COUNTRY) TOLD THE EMBASSY'S PUBLIC AFFAIRS ASSISTANT QUITE MATTER-OF-FACTLY THAT THE PLANNED CONSTITUTIONAL REVISIONS WILL INCLUDE THE ALIGNMENT OF BRUNEIAN CIVIL LAW WITH THE ISLAMIC SHARIA LAW. HE SAID THAT AS A CONSEQUENCE IN THE FUTURE A LOT OF BRUNEIANS WOULD BE WALKING AROUND WITHOUT HANDS, BECAUSE AMPUTATION IS THE PUNISHMENT CALLED FOR BY THE KORAN FOR THEFT.

¶6. OUR PUBLIC AFFAIRS ASSISTANT PRESSED LEONG AND HE INSISTED THAT HE WAS SERIOUS. HE OPINED THAT IT WOULD BE A "GOOD THING" BECAUSE THE PUNISHMENTS WOULD HELP TO ELIMINATE CRIME. HE ADDED THAT OTHER OFFENSES SUCH AS ADULTERY, GAMBLING, DRINKING, AND BEARING FALSE WITNESS (INCLUDED IN THE HUDUD PUNISHMENTS) WOULD BE CONSIDERED "CRIMES" AND ATTRACT THE APPROPRIATE ISLAMIC PENALTIES.

¶7. THE ASSISTANT SOLICITOR GENERAL CLAIMED THAT THE

COMMITTEE ON SHARIA LAW HAD BEEN WORKING FOR A NUMBER OF YEARS ON THE CHANGES, AND THAT ITS WORK HAD NOW BEEN FINISHED. HE CLAIMED THAT THE COMMITTEE'S PROPOSALS WERE NOW BEFORE THE SULTAN FOR HIS CONSENT. CONCERNING OTHER POSSIBLE CONSTITUTIONAL REVISIONS, LEONG CLAIMED THAT ALL REFERENCES TO DEMOCRATICALLY-ELECTED ASSEMBLIES WOULD BE REMOVED FROM THE CONSTITUTION, AND THE NATIONAL IDEOLOGY, MIB (MALAY MUSLIM MONARCHY) WOULD BE OFFICIALLY DESIGNATED AS THE SYSTEM OF GOVERNMENT IN BRUNEI.

¶8. ADDING AN ELEMENT OF CREDIBILITY TO LEONG'S ASSERTIONS, THE SULTAN HIMSELF, IN A STATEMENT ISSUED FEBRUARY 28, ON THE OCCASION OF THE CELEBRATION OF THE FEAST OF THE REVELATION OF THE KORAN, EXTOLLED THE VALUE OF THE KORAN AS A GUIDE FOR EVERY ASPECT OF DAILY LIFE. HE SPECIFICALLY MENTIONED THAT THE KORAN SETS FIXED PENALTIES FOR SUCH ACTIVITIES AS ADULTERY, GAMBLING, USURY, AND DRINKING ALCOHOL. HE ASSERTED THAT HIS GOVERNMENT WOULD, WITH IMMEDIATE EFFECT, "STUDY AND IDENTIFY ALL TEACHINGS OF THE KORAN WHICH CAN BE INCORPORATED INTO OUR NATIONAL ADMINISTRATION, AND THEY SHOULD BE PRACTICED."

¶9. ON MARCH 9, THE AMBASSADOR PAID HER INITIAL COURTESY CALL ON PEHIN DATO MOHAMED ZAIN, THE MINISTER FOR RELIGIOUS AFFAIRS. THE DEPUTY MINISTER, DATO YAHYA, WAS ALSO PRESENT. THE MINISTER READILY ACKNOWLEDGED THAT EVENTUALLY HE WOULD LIKE TO SEE THE FULL APPLICATION OF SHARIA LAW IN BRUNEI, INCLUDING THE HUDUD PUNISHMENTS. HE AND HIS DEPUTY SAID THAT THESE COULD BE A DETERRENT TO CRIME. HE SAID THAT BEFORE SUCH MEASURES COULD BE INTRODUCED, THE PEOPLE WOULD HAVE TO BE PROPERLY PREPARED, SO THAT THEY WOULD ACCEPT IT, AND THIS WOULD TAKE TIME. HE SAID HE DID NOT THINK THAT THE PLANNED CONSTITUTIONAL REVISIONS WOULD INCLUDE SUCH PROVISIONS.

¶10. COMMENT: MINISTER ZAIN, HIS POSITION NOTWITHSTANDING, IS NOT A RELIGIOUS EXTREMIST. HE IS BELIEVED TO BE RATHER MODERATE. IN THIS CONVERSATION, MINISTER ZAIN DID NOT APPEAR TO BE AN ADVOCATE OF FORCING HUDUD PUNISHMENTS ON A RELUCTANT BRUNEI. THE MINISTER WHO IS BELIEVED TO BE MOST ZEALOUS IN SEEKING THE ISLAMIZATION OF BRUNEI IS PEHIN DATO AZIZ, THE MINISTER OF EDUCATION, ALTHOUGH WE DO NOT KNOW HIS VIEWS ON HUDUD.

¶11. COMMENT CONTINUED: CONCERNING THE SULTAN'S FEBRUARY 28TH EMBRACE OF THE KORAN, INCLUDING ITS SEVERE PUNISHMENTS, WE ATTRIBUTE THIS TO THE OCCASION, AND TO THE FACT THAT IT OCCURRED WELL INTO THE FASTING MONTH OF RAMADAN, WHEN RELIGIOUS ZEAL REACHES A PEAK. WE UNDERSTAND THAT THE SULTAN MET NIGHTLY DURING RAMADAN FOR LENGTHY KORAN-READING SESSIONS WITH MULLAHS. THESE MIGHT WELL HAVE INFLUENCED HIS PRONOUNCEMENT. IN ADDITION, THE SULTAN ONLY SAID HIS GOVERNMENT "WILL STUDY AND IDENTIFY" KORANIC TEACHINGS FOR INCORPORATION INTO HIS GOVERNMENT'S ADMINISTRATION. IN BRUNEI, ISSUES CAN BE, AND USUALLY ARE, STUDIED AT GREAT LENGTH, AND FOR SUBSTANTIAL PERIODS OF TIME. WE SUSPECT THAT THE INTRODUCTION OF HUDUD PUNISHMENTS WILL REMAIN UNDER STUDY FOR YEARS TO COME. END COMMENT

A MODEST REFORM: COUNCIL OF ADVISERS OR LEGISLATIVE ASSEMBLY

---

¶12. OUR CONCLUSION THAT HUDUD IS NOT IMMINENT FOR BRUNEI WAS REINFORCED BY TWO WELL-PLACED OFFICIALS. MFA PERMSEC DATO LIM JOCK SENG (PROTECT), WITH WHOM THE AMBASSADOR MANAGED A FEW RARE PRIVATE MINUTES RECENTLY, DISMISSED THE IDEA OUT OF HAND, SAYING "MY MINISTER WOULD NEVER ALLOW IT". (NOTE: THE MINISTER OF FOREIGN AFFAIRS IS PRINCE MOHAMED, THE SULTAN'S BROTHER; HE HAS BEEN CHAIRING THE CONSTITUTIONAL REVIEW COMMITTEE. END NOTE) DATO LIM SAID THAT HE

EXPECTS THE REFORMS TO INCLUDE THE ESTABLISHMENT OF AN ADVISORY COUNCIL OF SOME SORT, WHICH HE HOPES WOULD MARK MOVEMENT TOWARDS AN EVENTUAL ELECTED LEGISLATURE.

¶13. BRUNEI'S MINISTER OF LAW AND ATTORNEY GENERAL, PENGIRAN BAHRIN (PROTECT), WAS ALSO REASSURING CONCERNING HUDUD PUNISHMENTS. ON MARCH 16 THE AMBASSADOR DISCUSSED CONSTITUTIONAL REFORM WITH HIM AT SOME LENGTH. STRESSING THAT HE WAS SPEAKING IN STRICT CONFIDENCE, THE MINISTER SAID HE HOPED (AND, IMPLICITLY, EXPECTED) THE PROPOSED CONSTITUTIONAL REFORMS TO ACCOMPLISH THE FOLLOWING:

-- GET RID OF THE STATE OF EMERGENCY WHICH HAS BEEN IN EFFECT SINCE 1962;

-- DESIGN A SYSTEM TO ACCOMMODATE THE SULTAN AS PRIME MINISTER. THIS WILL NOT BE A WESTMINSTER-STYLE PARLIAMENTARY DEMOCRACY, HE STRESSED;

-- ESTABLISH A LEGISLATIVE ASSEMBLY. INITIALLY THIS BODY WILL BE APPOINTED, BUT (IN STARK CONTRAST TO THE ASST. SOLICITOR GENERAL'S VIEW) BAHRIN SAID THAT THIS WILL ONLY BE TRANSITIONAL TOWARDS AN ELECTED BODY, AND THE TRANSITIONAL PERIOD SHOULD BE CLEARLY STATED IN THE CONSTITUTION. THE BODY SHOULD HAVE REPRESENTATIVES OF ALL SEGMENTS OF SOCIETY, INCLUDING MINORITIES AND THE PRIVATE BUSINESS SECTOR. INITIALLY, VILLAGE HEADMEN COULD SERVE, PERHAPS, AS A TYPE OF ELECTORAL COLLEGE TO SELECT NOMINEES FOR THE BODY. REPRESENTATIVES MIGHT BE CHOSEN BY DISTRICTS (KNOWN HERE AS MUKIM--COLLECTIONS OF VILLAGES). AFTER THE TRANSITIONAL PERIOD, MOVEMENT WOULD BE MADE TOWARDS DIRECT ELECTION OF THIS BODY. THIS BODY WOULD DEBATE AND PASS LAWS, INCLUDING THE BUDGET, FOR THE SULTAN'S APPROVAL.

-- RETAIN BRUNEI'S CIVIL AND CRIMINAL LAW AS IT IS, FOUNDED ON THE BRITISH COMMON LAW SYSTEM. SHARIA LAW WOULD REMAIN IN PLACE FOR RELIGIOUS OFFENSES. HUDUD PUNISHMENTS WOULD NOT BE INTRODUCED.

-- TRANSFORM ALL OF THE EXECUTIVE ORDERS OF THE SULTAN, WHICH HAVE SUBSTITUTED FOR LAWS DURING THE PERIOD OF EMERGENCY POWERS AND IN THE ABSENCE OF A LEGISLATIVE BODY, INTO LAWS.

¶14. IN RESPONDING TO THE AMBASSADOR'S QUESTION ABOUT THE HUDUD PUNISHMENTS, THE ATTORNEY GENERAL SAID THAT THE PROPOSED LEGISLATIVE BODY WOULD SERVE AS A "BRAKE" ON, AND AS A COUNTER TO, THE RELIGIOUS ELEMENTS WHO KEEP PRESSING FOR INCREASED ISLAMIZATION. THIS BROADLY-BASED BODY WOULD PROVIDE ALTERNATE VIEWS. AT PRESENT, BAHRIN CLAIMED, ONLY THE RELIGIOUS ELEMENTS ARE WELL-ORGANIZED AND GET THEIR VIEWS HEARD, WITHOUT CHALLENGE, BY THE SULTAN. THIS LEGISLATIVE BODY WOULD COUNTER-BALANCE WHAT THE ATTORNEY GENERAL TERMED THE "RELIGIOUS RADICALS."

¶15. PENGIRAN BAHRIN SEEMED CONFIDENT OF THE ABOVE OUTCOME, BUT HE ACKNOWLEDGED THAT TOTAL CONSENSUS HAD NOT YET BEEN REACHED ON THE PROPOSALS. THE WHOLE CABINET HAS PARTICIPATED IN THE CONSTITUTIONAL REVIEW COMMITTEE, HE SAID, WHICH WAS CHAIRED BY PRINCE MOHAMED. THERE HAS BEEN STRONG RELIGIOUS REPRESENTATION. DISCUSSION HAS BEEN INTENSE, HE SAID, WITH SOME ISSUES REVISITED THREE OR FOUR TIMES. BAHRIN SAID THAT IT IS IMPORTANT THAT THERE BE CONSENSUS, SO THAT THE REFORMS WILL BE GENUINELY ACCEPTED AND PROPERLY IMPLEMENTED.

¶16. THE ATTORNEY GENERAL EMPHASIZED THAT THE 1959 CONSTITUTION WOULD REMAIN THE BASIS OF BRUNEI'S LEGAL SYSTEM; THERE WOULD BE NO DRASTIC CHANGES. CHANGES RATHER WOULD EVOLVE OVER TIME.

¶17. TIMING OF THE REFORMS: I VENTURED THAT SINCE

THE SULTAN HAD ANNOUNCED ON FEBRUARY 23RD (NATIONAL DAY) THAT THE REVIEW PROCESS IS NEARING COMPLETION, PERHAPS HE WOULD ANNOUNCE THE REFORMS ON ANOTHER SIGNIFICANT DAY, PERHAPS JUNE 12 WHEN THE RAMADAN-POSTPONED NATIONAL DAY CELEBRATIONS WILL TAKE PLACE, OR PERHAPS THE SULTAN'S JULY 15 BIRTHDAY. THE ATTORNEY GENERAL SAID THAT SEPTEMBER 23RD, CONSTITUTION DAY, WOULD BE ANOTHER POSSIBILITY. HE SAID THAT SINCE THE SULTAN HAS PUBLICIZED THE REVIEW PROCESS, IT IS LIKELY THAT THE ACTUAL REFORMS WILL BE ANNOUNCED THIS YEAR.

WILL MALAY MUSLIM MONARCHY (MIB) CONCEPT BE INCORPORATED INTO THE CONSTITUTION?

-----

¶18. THIS IS ANOTHER QUESTION ON WHICH OPINIONS DIFFER. SOME OBSERVERS, INCLUDING THE USUALLY WELL-INFORMED CHARGE OF OMAN (PROTECT), BELIEVE THE CONSTITUTIONAL REFORMS WILL FORMALLY INCORPORATE BRUNEI'S DE FACTO NATIONAL IDEOLOGY, THE MIB, INTO THE CONSTITUTION. OTHERS, INCLUDING THE ATTORNEY GENERAL, SAY THAT THIS WILL NOT HAPPEN, AS THE CONSTITUTION ALREADY ESTABLISHES ISLAM AS THE STATE RELIGION.

A LONG SHOT: PRINCE MOHAMED AS PRIME MINISTER?

-----

¶19. DISCUSSION OF PROPOSED CONSTITUTIONAL REFORMS HAS TRIGGERED SOME RENEwed DISCUSSION OF THE POSSIBILITY THAT THE SULTAN WILL NAME HIS RESPECTED BROTHER, PRINCE MOHAMED, PRIME MINISTER. ACCORDING TO THE OMANI CHARGE, SEVERAL OF HIS SOURCES BELIEVE THIS IS IN THE OFFING. APPARENTLY THIS WOULD BE INTENDED AS A GESTURE TO HEAL WHAT IS ALLEGED TO BE THE STILL-REMAINING BREACH BETWEEN THE TWO BROTHERS CAUSED BY THE SULTAN TAKING A SECOND WIFE. WE FIND THIS UNLIKELY BUT REPORT IT AS A LONG SHOT BECAUSE OF ITS SOURCE.

SULTAN TO NAME A CROWN PRINCE?

-----

¶20. SEVERAL SOURCES SUGGEST THAT THIS IS THE YEAR THE SULTAN WILL NAME PRINCE BILLAH, HIS OLDEST SON (BY HIS FIRST WIFE), THE CROWN PRINCE AND HEIR-APPARENT. THIS WOULD END THE OCCASIONAL MILD SPECULATION THAT THE SULTAN MIGHT BREAK WITH TRADITION AND NAME HIS REPORTEDLY HIGHLY INTELLIGENT SON BY HIS SECOND WIFE, PRINCE 'ABDUL 'AZIM, CROWN PRINCE INSTEAD OF BILLAH, WHO IS VERY MODESTLY ENDOWED IN THE BRAINS DEPARTMENT. WE BELIEVE TRADITION WILL PREVAIL AND BILLAH EVENTUALLY WILL BE NAMED, DESPITE THE SULTAN'S GREAT PRIDE IN PRINCE 'ABDUL 'AZIM, WHICH I PERSONALLY OBSERVED.

¶21. LOOKING MUCH FARTHER DOWN THE ROAD OF SPECULATION, A SCENARIO WHEREBY PRINCE BILLAH BECAME THE SULTAN AND PRINCE MOHAMED BECAME PRIME MINISTER WOULD BE CREDIBLE. BILLAH COULD HANDLE THE CEREMONIAL DUTIES OF SULTAN, GUIDED BY HIS FATHER BEHIND THE THRONE, WHILE THE COMPETENT AND RESPECTED MOHAMED, WHO IS STILL IN HIS FORTIES, RAN THE GOVERNMENT.

¶22. COMMENT: AS THE FOREGOING SUGGESTS, THE SITUATION WITH REGARD TO PENDING CONSTITUTIONAL REFORMS REMAINS FLUID. THE CANDID OVERVIEW PROVIDED BY THE ATTORNEY GENERAL MOST LIKELY REPRESENTS THE CONSENSUS OF THE MODERATES IN THE CABINET. THE CONFIDENT ASSERTION OF THE ASSISTANT SOLICITOR GENERAL THAT HUDUD PUNISHMENTS ARE IMMINENT PROBABLY REFLECTS HIS ACCESS TO THE RECOMMENDATIONS OF THE MORE RELIGIOUSLY RADICAL ELEMENTS, WHO MOST LIKELY HAVE PRESSED FOR THIS DEVELOPMENT.

¶23. GIVEN THE ONGOING SEARCH FOR CONSENSUS, WHAT

ULTIMATELY EMERGES PROBABLY WILL NOT BE AS LIBERAL AS WHAT THE ATTORNEY GENERAL APPEARS TO EXPECT, NOR IS THERE LIKELY TO BE MUCH THAT WILL STRENGTHEN THE POSITION OF RELIGIOUS RADICALS. CHANGES ARE LIKELY TO BE MODEST AND INCREMENTAL, AND THE SULTAN'S ULTIMATE POWERS WILL REMAIN INTACT.

¶24. NONETHELESS, AS THE ATTORNEY GENERAL INDICATED, THE INTRODUCTION OF SOME KIND OF CONSULTATIVE OR LEGISLATIVE ASSEMBLY, WITH HOWEVER MODEST POWERS, COULD AT LEAST PROVIDE A FORUM FOR AIRING ALTERNATE VIEWS. IT COULD GIVE THE SULTAN NEEDED FEEDBACK FROM HIS PEOPLE CONCERNING GOVERNMENT POLICIES, WHICH HE DOES NOT NOW RECEIVE, TO OUR KNOWLEDGE, FROM ANYONE EXCEPT, WE SUSPECT, HIS BROTHER THE FOREIGN MINISTER. WHILE WE DO NOT EXPECT THE DOOR TO DEMOCRACY TO OPEN IN BRUNEI ANYTIME SOON, THE CONSTITUTIONAL REFORMS FAVORED BY ATTORNEY GENERAL BAHRIN JUST MIGHT OPEN A WELL-SCREENED WINDOW AN INCH OR TWO. END COMMENT.

TULL